

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-2681

GURMIT SINGH KAHLON,
Petitioner

v.

ATTORNEY GENERAL UNITED STATES OF AMERICA

On Petition for Review of an
Order of the Board of Immigration Appeals
(Agency No. A201-218-012)
Immigration Judge: David Cheng

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
July 9, 2026

Before: KRAUSE, FREEMAN, and ROTH, *Circuit Judges*

(Filed: October 28, 2026)

OPINION*

* This disposition is not an opinion of the full Court and, pursuant to I.O.P. 5.7, does not constitute binding precedent.

FREEMAN, *Circuit Judge*.

Gurmit Singh Kahlon petitions for review of the Board of Immigration Appeals' ("BIA") decisions (1) affirming the Immigration Judge's ("IJ") denial of withholding of removal, and (2) denying a motion for remand. For the reasons that follow, we will deny the petition.

I.

Kahlon is a native and citizen of India, from the Punjab region. He entered the United States in April 2008 as a nonimmigrant visitor and with authorization to remain until no later than October 2008. He remained in the United States beyond the authorized period, and the Department of Homeland Security initiated removal proceedings in 2011. Through counsel, Kahlon conceded that he was removable but applied for withholding of removal.¹ He sought relief based on religious and political persecution.

At a hearing before an IJ, Kahlon testified to his Sikh religion and membership in the Mann political party, which advocates for the rights of Sikhs. On four occasions, he was arrested following his participation in Mann party rallies. The first was in 1984, when he and 50 others were arrested after visiting the Golden Temple in Amritsar following the military's assault on the temple in June 1984. Kahlon was detained for several days—first in a military camp, then at a police station, and then in a jail. During one of the days at the military camp, guards beat the detainees with a rubber belt and

¹ Kahlon also applied for protection under the Convention Against Torture ("CAT"), but his brief to this Court raises no arguments regarding CAT relief, so we do not address the CAT application here.

threatened to shoot them. The detainees were also threatened while at the police station. The second arrest was in 2005, when police arrested Kahlon at a Mann party protest, held him overnight, and beat him on his arms and legs. The third arrest was in 2007, when police arrested Kahlon at another political rally and detained him for one day without physically harming him. Finally, in February 2008, Kahlon was arrested at a rally honoring victims of the attack on the Golden Temple, was held overnight at the police station, and was not threatened or physically harmed.

Kahlon's family members have remained in his home village in the Punjab region since he left India in April 2008. They have not been harmed or harassed, though police have asked Kahlon's mother about Kahlon.

Kahlon testified that he would continue his involvement in the Mann party if he returned to India, and he expressed fear of being arrested and harmed if he did so.

The IJ found Kahlon's testimony credible but denied his application for withholding of removal. The IJ determined that Kahlon had not shown past harm rising to the level of persecution or a well-founded fear of future persecution based on political opinion or religion.² The IJ also found it was not more likely than not that Kahlon would be persecuted in India on account of his political opinion or religion.

² Apparently assuming without deciding that there was a presumption of a well-founded fear of future persecution, the IJ determined that DHS rebutted that presumption by showing Kahlon could internally relocate within India. Relying on evidence that Punjabi Sikhs can safely relocate to numerous places in India, the IJ rejected Kahlon's testimony that he could not relocate within India because other areas did not share his Punjabi language and culture.

Kahlon appealed to the BIA. While that appeal was pending, he filed a motion to remand based on an approved visa petition filed on his behalf by his United States citizen daughter. The BIA adopted and affirmed the IJ's withholding-of-removal decision, and it denied the motion to remand. It explained that the remand motion did not comply with a regulation requiring that it be accompanied by the adjustment-of-status application. *See* 8 C.F.R. § 1003.2(c)(1).

Kahlon timely petitioned for review of the BIA's decision.

II.³

To obtain withholding of removal, Kahlon first has to show eligibility for asylum. To do so, he must show that he experienced past persecution or has a well-founded fear of future persecution on account of a statutorily protected ground, such as religion or political affiliation. 8 U.S.C. § 1101(a)(42); *accord Chavarria v. Gonzalez*, 446 F.3d 508, 518 (3d Cir. 2006). If he is unable to satisfy the asylum standard, he necessarily fails to satisfy the higher withholding-of-removal standard. *Lukwago v. Ashcroft*, 329

³ The BIA had jurisdiction under 8 C.F.R. §§ 1003.1(b)(3) and 1240.15. We have jurisdiction to review the final order of removal under 8 U.S.C. § 1252(a)(1). “When [] the [BIA] adopts and affirms the IJ’s decision . . . we have authority to review both decisions.” *Hanif v. Att’y Gen.*, 694 F.3d 479, 483 (3d Cir. 2012); *see also Guzman Orellana v. Att’y Gen.*, 956 F.3d 171, 177 (3d Cir. 2020) (“Although our jurisdiction only extends to final orders of removal and thus only to decisions of the BIA, we also review the IJ’s decision to the extent it is adopted, affirmed, or substantially relied upon by the BIA.”). “We review legal determinations de novo and factual findings for substantial evidence.” *Saban-Cach v. Att’y Gen.*, 58 F.4th 716, 724 n.23 (3d Cir. 2023). On substantial evidence review, we may not disturb the agency’s factual findings unless “any reasonable adjudicator would be compelled to conclude to the contrary.” *Thayalan v. Att’y Gen.*, 997 F.3d 132, 137 (3d Cir. 2021) (citation modified).

F.3d 157, 182 (3d Cir. 2003). That higher standard requires him to establish a “clear probability” of persecution on account of a protected ground if returned to India, *Chen v. Gonzales*, 434 F.3d 212, 216 (3d Cir. 2005) (citation modified), meaning that persecution is “more likely than not” to occur, *Lukwago*, 329 F.3d at 182 (citation modified).

Kahlon primarily argues that the agency’s past-persecution ruling was erroneous, making him entitled to a presumption of a well-founded fear of future persecution. But even if he were correct about those points, that would bear only on his eligibility for asylum—not the greater showing he needed to make to obtain withholding of removal. As to the withholding-of-removal showing, Kahlon’s sole argument is that the IJ erred when it found the police asked Kahlon’s mother about Kahlon’s whereabouts only once. But the vague testimony Kahlon relies on does not compel a conclusion that the IJ’s factual finding was incorrect. Moreover, the record contains substantial evidence supporting the IJ’s finding that Kahlon did not demonstrate a clear probability of persecution if returned to India.

III.⁴

Kahlon does not contest that he failed to comply with the regulation requiring him to include his application for adjustment of status with his motion to remand. *See* 8 C.F.R. § 1003.2(c)(1). The BIA may deny a motion to remand on that basis, *see Gen Lin v. Att’y Gen.*, 700 F.3d 683, 688–89 (3d Cir. 2012), and it did so here. Although there are

⁴ We review the BIA’s denial of a motion to reopen for abuse of discretion. *Tilija v. Att’y Gen.*, 930 F.3d 165, 170 (3d Cir. 2019). Under that standard, we will not disturb the BIA’s decision unless it is “arbitrary, irrational, or contrary to law.” *Id.* (citation modified).

some scenarios in which the BIA may opt to loosen its procedural requirements for applicants, *see Gomez-Gabriel v. Att’y Gen.*, 146 F.4th 327, 331 (3d Cir. 2025), its choice to enforce its regulation in this case was not an abuse of discretion, *see Gen Lin*, 700 F.3d at 688–89.

* * *

For the foregoing reasons, we will deny the petition for review.